

**BEFORE THE PUBLIC SERVICE COMMISSION
MONTGOMERY, ALABAMA**

ELECTRONICALLY FILED
Tuesday, April 25, 2023
TR2337614
ALABAMA PUBLIC SERVICE COMMISSION
WALTER L. THOMAS, JR., SECRETARY

IN RE:)
ECO PRESERVATION SERVICES LLC,) **DOCKET NUMBER**
)
Respondent/Petitioner)

**MOTION FOR EXTENSION OF DISCOVERY DEADLINE
AND HEARING DEADLINE**

COMES NOW Respondent/Petitioner ECO Preservation Services, LLC, and hereby moves for an extension of the discovery deadline, scheduled for April 26, 2023, and extension of the hearing scheduled on May 3, 2023, and in support hereof states as follows:

This matter has been pending before the Alabama Public Service Commission and involves ECO Preservation Services, LLC. Until the filing of a Notice of Appearance, today, by the undersigned counsel, ECO Preservation Services, LLC, was not represented by counsel.

On April 11, 2023, the Commission entered its Report and Order which, among other things, set a hearing on this matter for May 3, 2023, at 9:30 a.m. In its Report and Order, the Commission noted as follows:

Following an assessment of that information [provided by ECO Preservation Services], APSC staff concluded that enough detailed information had been provided to proceed with the process of certifying Eco Preservation Services, LLC and establishing interim rates, terms and conditions for the services the Company will provide. The purpose of this order is to formally establish the necessary proceeding to accomplish certification and set the interim, and ultimately final, rates, terms and conditions of services Eco Preservation Services will provide.

(Report and Order at 3.)

On Wednesday, April 19, 2023, just two weeks before the hearing date, the Commission propounded additional discovery requests, consisting of at least sixteen items (excluding subparts) in anticipation of the hearing. By Order entered on the following day, Thursday, April 20, 2023,

ECO Preservation Services was instructed to respond to the discovery requests by no later than Wednesday, April 26, 2023, or within less than six calendar days.

Pursuant to the Commission's Administrative Rules, Ala. Admin. Code R. 770-X-4-.16, "All requests shall be made within a reasonable period of time from the filing of testimony and a reasonable time before the hearing." The ruling directing ECO Preservation Services to respond to the new discovery requests on or before April 26, 2023, does not provide a reasonable time and, therefore, violates Rule 770-X-4-.16.

In fact, the Alabama Rules of Civil Procedure provide guidance in establishing a "reasonable time." Pursuant to Ala. R. Civ. P. 6(a):

When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule and in Rule 77(c) "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or as prescribed in § 1-3-8, Code of Alabama 1975.

The Order directing ECO Preservation Services to respond on or before April 26, 2023, includes both the intermediate Saturday and Sunday, as well as the Confederate Memorial Day, as recognized by the State of Alabama, on Monday, April 24, 2023. Therefore, ECO Preservation Services was provided only two working days before its response to the discovery request was due on April 26, 2023. This is unreasonable as a matter of law.

Accordingly, ECO Preservation Services hereby requests an additional one week from April 26, 2023 (excluding intermediate Saturdays, Sundays, and holidays), or on or before May 5, 2023, to respond to the PSC's request.

Furthermore, in an effort to cooperate with the PSC and provide sufficient time for the PSC to review ECO Preservation Services' production, and for the undersigned counsel to review and

study the file and to prepare for the hearing, ECO Preservation Services requests the hearing previously scheduled for May 3, 2023, be rescheduled to a later date.

Respectfully submitted this 25th day of April, 2023.

/s/ J. Flynn Mozingo

J. Flynn Mozingo (MOZ003)
One of the Attorneys for ECO
Preservation Services, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing upon the following using the E-Filing system and by placing a copy of the same in the U.S. Mail, postage prepaid and properly addressed this the 25th day of April, 2023.

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/s/ J. Flynn Mozingo
Of Counsel

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